

# **ATTACHMENT B**

**VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS  
JUSISPRUDENCE EXAMINATION  
RFP NO. FDE-2005-14**

**PRENEED REGULATIONS  
FOR  
FUNERAL DIRECTORS AND EMBALMERS**

**18 VAC 65-30-10 et seq.**

**Effective July 28, 2004**

Commonwealth of Virginia



# REGULATIONS

## OF THE

### VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulations: 18 VAC 65-3010 et seq.  
Regulations For Pre-need Funeral Planning

Statutory Authority: §54.1-2400 and Chapter 28  
of Title 54.1 of the *Code of Virginia*

Revised Date: July 28, 2004

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# Virginia Administrative Code

## CHAPTER 30 REGULATIONS FOR PRENEED FUNERAL PLANNING

Effective: July 28, 2004

### Part I General Information

#### **18VAC65-30-10. Definitions.**

In addition to those defined in §54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Appointee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

"Capper," "steerer," or "shill" means a person who serves to entice another to purchase a product or to direct the course of action and choice of the buyer in a preneed funeral contract sale.

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration," "contract price," or "funds" means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract, and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

"Contract seller" means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

"Designee" means the individual designated to make arrangements for burial or final disposition of the remains pursuant to §54.1-2825 of the Code of Virginia.

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers that will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery that complies with Chapter 23.1 (§54.1-2310 et seq.) of Title 54.1 of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment that are sold by a cemetery operating in accordance with Chapter 23.1 of Title 54.1 of the Code of Virginia.

"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

**18VAC65-30-20 to 18VAC65-30-30. [Repealed]**

Part II  
Sale of Preneed Plans

**18VAC65-30-40. [Repealed]**

**18VAC65-30-50. Solicitation.**

- A. In accordance with provisions of §54.1-2806 of the Code of Virginia, a licensee shall not initiate any preneed solicitation using in-person communication by the licensee, his agents, assistants, or employees.
- B. After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee.

Part III  
Operational Responsibilities

**18VAC65-30-60. Records; general.**

- A. A licensee shall keep accurate accounts, books, and records of all transactions required by this chapter.
- B. Preneed contracts and reporting documents shall be retained on the premises of the establishment for one year after the death of the contract beneficiary.
- C. A funeral home shall keep on file a written verification from the insurance company that the insurance or annuity contract complies with §54.1-2820 B of the Code of Virginia.
- D. All preneed records shall be available for inspection by the Department of Health Professions.

**18VAC65-30-70. Record reporting.**

- A. A contract provider shall keep a chronological listing of all preneed contracts. The listing shall include the following:
1. Name of contract buyer;
  2. Name of contract beneficiary;
  3. Date of contract;
  4. How contract was funded;
  5. Whether up to 10% of funds are retained by the contract provider for contracts funded through trust; and

6. Whether funeral goods and supplies are stored for the contract buyer.

B. A contract provider who discontinues its business operations shall notify the board and each existing contract buyer in writing.

Part IV  
Contract

**18VAC65-30-80. Content and format.**

A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the contract buyer has been given in writing all information and disclosures required by law and regulation.

B. In addition to requirements of §54.1-2820 of the Code of Virginia, the contract shall contain the following:

1. The date of the contract;
2. Whether or not the price of the supplies and services purchased is guaranteed;
3. The appointee agreement when applicable; and
4. Signatures of the contract seller and the contract buyer.

C. If an appointee agreement has been signed, it shall be attached to the preneed contract as a valid part of the contract.

Part V  
Disclosures

**18VAC65-30-90. Disclosures.**

A. At the time of the inquiry, licensees shall furnish to each person inquiring about preneed arrangements a copy of the general price list and preneed disclosure questions and answers.

B. Immediately upon concluding the arrangement conference, licensees shall furnish to each person who makes a preneed arrangement a copy of the preneed contract and funding contract.

C. An itemized statement of funeral goods and services shall be given at the time of need even if the arrangements were made through a preneed contract.

Part VI  
Funding

**18VAC65-30-100. Finance charges prohibited.**

A licensee shall not charge finance charges on a preneed arrangement.

**18VAC65-30-110. Cancellation or transfer of contract.**

A. Any person who makes payment under this contract may terminate the agreement at any time prior to the time for which the services or supplies are furnished.

B. If the contract buyer terminates the contract within 30 days of the execution of the contract, the contract buyer shall be refunded all consideration paid or delivered and any interest or income accrued on it.

C. If the contract buyer uses a revocable trust as the funding source and terminates the contract after 30 days of the execution of the contract, the contract buyer shall be refunded:

1. All consideration paid or delivered on nonguaranteed items;
2. At least 90% of all consideration paid for guaranteed items; and
3. All interest or income accrued on it.

D. If the contract buyer uses an irrevocable trust as the funding source and terminates the contract after 30 days of its execution, the contract buyer may be eligible for a refund only with the agreement of the contract buyer, the contract beneficiary, and the trustee.

E. The contract buyer shall have the right to change the contract provider and the trustee at any time prior to the furnishing of the services or supplies contracted for under the preneed contract.

**18VAC65-30-120. Escrow account.**

Within five banking days after the day of receipt of any money from the contract buyer and until the time the money is invested in a trust, life insurance, or annuity policy, the contract seller or the contract provider shall deposit the money into an escrow account in a bank or savings institution approved to do business in the Commonwealth.

**18VAC65-30-130. Real estate.**

When the consideration consists in whole or in part of any real estate, the following shall occur:

1. The preneed contract shall be recorded as an attachment to the deed whereby the real estate is conveyed; and
2. The deed shall be recorded in the clerk's office in the circuit court of the city or county in which the real estate being conveyed is located.

**18VAC65-30-140. Personal property.**



When the consideration consists in whole or in part of any personal property, the following shall occur:

1. Personal property shall be transferred by:

a. Actual delivery of the personal property; or

b. Transfer of the title to the personal property.

2. Within 30 days of receiving the personal property or the title to the personal property, the licensee or person delivering the property shall:

a. Execute a written declaration of trust setting forth the terms, conditions, and considerations upon which the personal property is delivered; and

b. Record the trust agreement in the clerk's office of the circuit court of the locality in which the person delivering the property is living; or

c. Record the preneed contract in the clerk's office of the circuit court of the locality in which the person delivering the property or trust agreement is living provided that the preneed contract sets forth the terms, conditions, and considerations of the trust.

**18VAC65-30-150 to 18VAC65-30-160. [Repealed]**

**18VAC65-30-170. Trust accounts.**

If funds are to be trusted, the trust account is to be established according to provisions of §§54.1-2822 and 54.1-2824 of the Code of Virginia and the following information shall be disclosed in writing to the contract buyer:

1. The amount to be trusted;

2. The name of the trustee;

3. The disposition of the interest;

4. The fees, expenses, and taxes which may be deducted from the interest;

5. Whether up to 10% is retained by the contract provider; and

6. A statement of the contract buyer's responsibility for taxes owed on the interest.

**18VAC65-30-180. Life insurance or annuity.**

If a life insurance or annuity policy is used to fund the preneed funeral contract, the contract shall be in compliance with provisions of §54.1-2820 B of the Code of Virginia and shall contain the following information:

1. Name of the contract provider;
2. Name and funeral license number of contract seller;
3. Place of employment of contract seller;
4. Name of insurance agent and agent's insurance license number;
5. Insurance agent's employer and insurance company represented by insurance agent; and
6. Identification as to whether the insurance agent is a funeral service licensee and, if so, the funeral service license number.

**18VAC65-30-190. [Repealed]**

Part VII  
Supplies and Services

**18VAC65-30-200. Supplies and services.**

- A. If the contract seller will not be responsible for furnishing the supplies and services to the contract buyer, the contract seller shall attach to the preneed funeral contract a copy of the contract seller's agreement with the contract provider.
- B. If any funeral supplies are sold and delivered to the contract provider prior to the death of the contract beneficiary, the risk of loss or damage shall be upon the contract provider during such period of storage.
- C. If the particular supplies and services specified in the contract are unavailable at the time of delivery, the contract provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Part VIII  
Required Content of Contracts and Disclosures

**18VAC65-30-210. [Repealed]**

**18VAC65-30-220. Content of preneed contracts.**

The following information shall be contained in any contract for preneed funeral planning.

Date: \_\_\_\_\_  
Contract: \_\_\_\_\_  
PRENEED FUNERAL CONTRACT  
for  
(Name of Recipient of Services)

\_\_\_\_\_  
(Zip) \_\_\_\_\_  
I. SUPPLIES AND SERVICES PURCHASED

If the prices of goods and services are guaranteed, no additional cost will incur for your family or estate even though the actual prices of goods and services may increase between the date of this contract and the time of need. (Please see the disclosure document.)

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use an item, we will explain the reasons in writing below. If you selected a funeral that may require embalming, such as a funeral with a viewing, you may have to pay for embalming. You do not have to pay for embalming you did not select if you select arrangements such as a direct cremation or immediate burial.

Guaranteed Services Purchased

I. BASIC SERVICES OF FUNERAL DIRECTOR AND STAFF \$ \_\_\_\_\_

II. FUNERAL HOME FACILITIES

A. Facilities and Staff for \$ \_\_\_\_\_  
visitation/viewing

B. Facilities and Staff for funeral \$ \_\_\_\_\_  
ceremony

C. Facilities and Staff for memorial \$ \_\_\_\_\_  
service

D. Equipment and Staff for graveside \$ \_\_\_\_\_  
service

(NOTE TO FUNERAL HOME: If you have additional charges such as facilities and staff for home/church viewing, or a charge for additional staff person or through calculation of manhours, etc.

add here as extra items. If you have a charge for equipment for interment, add here.)

III. EMBALMING

A. Normal remains \$ \_\_\_\_\_

B. Autopsy remains \$ \_\_\_\_\_

IV. OTHER PREPARATION OF THE BODY \$ \_\_\_\_\_

(NOTE: List all items that you placed under Other Preparation on your General Price List.)

V. IMMEDIATE BURIAL \$ \_\_\_\_\_

VI. DIRECT CREMATION \$ \_\_\_\_\_

VII. TRANSFER OF REMAINS TO FUNERAL ESTABLISHMENT \$ \_\_\_\_\_

VIII. FORWARDING REMAINS TO ANOTHER FUNERAL HOME \$ \_\_\_\_\_

IX. RECEIVING REMAINS FROM ANOTHER FUNERAL HOME \$ \_\_\_\_\_

X. AUTOMOTIVE EQUIPMENT

A. Hearse \$ \_\_\_\_\_

B. Limousine \$ \_\_\_\_\_

(NOTE: List all others that you placed on General Price List.)

XI. FUNERAL MERCHANDISE

A. Casket (\*describe)

\_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_

B. Outer Burial Container  
(\*describe)

\_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_

C. List any others

\_\_\_\_\_

Supplies Purchased

Clothing \$ \_\_\_\_\_

Temporary marker	\$ _____
Acknowledgment cards	\$ _____
Register/attendance books	\$ _____
Memorial folders	\$ _____
Other	\$ _____
SUBTOTAL COSTS OF (GUARANTEED) SUPPLIES PURCHASED:	\$ _____

### XIII. PACKAGE PRICES

(NOTE: List all package prices by name.)

SUBTOTAL COSTS OF (GUARANTEED) SUPPLIES PURCHASED:	\$ _____
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### Nonguaranteed Goods and Services Purchased

The actual prices of goods and services below are NOT GUARANTEED. These items may include, but not be limited to, obituary notices, death certificates, cemetery fees, flowers, sales tax, etc. The prices are estimated and the estimates will be included in the Grand Total Contract Price. The differences between the estimated prices below and the actual cost will be settled with your family or estate at the time of need:

SUBTOTAL ESTIMATED COSTS OF NONGUARANTEED ITEMS:	\$ _____
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### GRAND TOTAL FOR PRENEED ARRANGEMENTS

1. Total cost of (guaranteed) services purchased	\$ _____
2. Total cost of (guaranteed) supplies purchased	\$ _____
3. Total estimated cost of nonguaranteed items	\$ _____

GRAND TOTAL	\$ _____
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The only warranties, express or implied, granted in connection with the goods sold in this preneed funeral contract, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE are extended by the (funeral home) \_\_\_\_\_.

## II. GENERAL INFORMATION

In order that the Buyer may understand the relationship of all parties involved

in this preneed arrangement and contract, the following is provided:

- A. Buyer:
- B. Funeral Home Providing Services:
- C. Contract seller:  
Employed by: (Funeral Home)  
Virginia Funeral Director License  
Number:

### Method of Funding

A. Insurance

B. Trust

1. Amount to be trusted:
2. Name of trustee:
3. Disposition of Interest:
4. Fees, expenses, taxes deducted from earned interest:
5. Buyer's responsibility for taxes owned on interest:

The following information will be given if an insurance policy or annuity contract is used to fund this agreement:

A. Buyer:

B. Insurance Company:

C. Insurance Agent:

Employed by: (Insurance Company)

Licensed Funeral Director in Virginia: \_\_\_\_yes \_\_\_\_no

Funeral Director License Number (If Applicable):

Employed by Funeral Home (If Applicable):

D. The life insurance or annuity contract provides either that:

\_\_\_\_\_ The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or

\_\_\_\_\_ A benefit payable at death under such contract that will be equal or exceed the sum of all premiums paid for such contract plus thereon at the annual rate of at least 5.0%, compounded annually.

### III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by Chapter 28 (§54.1-2800 et seq.) of Title 54.1 of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to:

The Board of Funeral Directors and Embalmers

6603 West Broad Street, 5th Floor

Richmond, Virginia 23230-1712

Telephone Number 804-662-9907

Toll Free Number 1-800-533-1560

### IV. DISCLOSURES

The disclosure statements will be available for your review. The General Price List shall be furnished to you by the contract seller. These contain information that you must receive by law and/or the authority of the Board of Funeral Directors and Embalmers. You are entitled to receive all information in clear and simple language including the language of the funding agreement for this preneed arrangement.

If any law, cemetery, or crematory requires the purchase of any of those items listed in Part I, the requirements will be explained in writing.

By signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents.

### V. TERMINATION OF CONTRACT

This person who funds this contract through a trust agreement may terminate this preneed contract at any time prior to the furnishing of the services or supplies contracted for:

Within 30 days

If you terminate this preneed contract within 30 days of the date of this contract, you will be refunded all payments of whatever type you have made, plus any interest or income you may have earned.

More than 30 days

If you terminate this preneed contract more than 30 days after the date on this contract, you will be refunded whatever amount was required to be placed in a revocable trust fund, plus any interest or income it has earned.

Any person who funds this contract through a trust fund which is irrevocable or through an insurance/annuity policy or through the transfer of real estate/personal property may not be eligible for a refund.

#### VI. STATEMENT OF GUARANTEE

By signing this contract, (Funeral Home) \_\_\_\_\_ agrees to the statement checked below (check one):

\_\_\_\_\_ Prefinancing guarantees that no additional payment will be required from the family or estate for guaranteed services and supplies provided the Grand Total of these arrangements is paid in full and the interest is allowed to accumulate in your account (see page \_\_\_\_\_ for Grand Total amount). Payment of the difference will be required for the nonguaranteed estimated items if they increase in price.

\_\_\_\_\_ The prices for items under supplies and services are not guaranteed.

#### VII. AGREEMENT

In witness whereof, the Buyer and the Funeral Home have executed this contract, intending its terms to be in accordance with the Code of Virginia and any regulations implementing the Code. By signing this contract you acknowledge that you have been provided access to and the opportunity to read the Disclosure Statements.

\_\_\_\_\_  
(Designee of Funeral Home)

\_\_\_\_\_  
(Buyer)

\_\_\_\_\_  
(Funeral Home)

\_\_\_\_\_  
(Contract Date)

#### VIII. PENALTIES OR RESTRICTIONS

The (funeral home) \_\_\_\_\_, has the following penalties or restrictions on the provisions of this contract.

1. (Insert geographic restrictions);



2. (Insert an explanation of the Funeral Home's inability to perform the request(s) of the Buyer);

3. (Insert a description of any other circumstances which apply);

4. (Insert information that if particular goods and services specified in the contract are unavailable at the time of need):

A. The funeral home shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship; and

B. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Addendum to Preneed Contract  
APPOINTEE AGREEMENT

I appoint \_\_\_\_\_ of (address) \_\_\_\_\_ to assist with the preneed arrangements in my behalf. The relationship of my appointee to me is \_\_\_\_\_.

Contract Beneficiary: \_\_\_\_\_ Date: \_\_\_\_\_

I accept the request of (contract beneficiary) \_\_\_\_\_ to assist with his/her preneed arrangements.

Appointee: \_\_\_\_\_ Date: \_\_\_\_\_

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Notary: \_\_\_\_\_

Date Commission Expires: \_\_\_\_\_

**18VAC65-30-230. Content of disclosure statements.**

The following disclosure statements shall be provided as a part of any contract used for preneed funeral planning:

We are required by law and/or the Virginia Board of Funeral Directors and Embalmers to provide access to and the opportunity for you to read the following information to assist you in preplanning. A question and answer format is used for clarity and includes the most commonly asked questions.

**PRENEED CONTRACTS**

-- Is there more than one type of preneed agreement?

Yes. Guaranteed contracts mean that the costs of certain individual items or the cost of the total package will never be more to your family or estate. Nonguaranteed means just the opposite. (See the section entitled "General Funding Information" for more information on guaranteed and nonguaranteed costs.)

Contracts may be funded by insurance/annuity policies, trusts, or transfer of real estate/personal property.

-- What are my protections?

You should take your completed preneed contract home before you sign it and review it with your family or your legal advisor. You have a right to this review before you sign the contract or pay any money.

You should also read carefully the information in this disclosure statement. If you have any questions, contact the seller for more information or contact your legal advisor.

## CANCELLATION

-- Can I cancel my preneed agreement if I change my mind? Will I get my money back?

You may cancel payment for supplies or services within 30 days after signing the agreement. If you funded your preneed arrangement through a trust, the contract seller will refund all the money you have paid plus any interest or income you have earned.

If you funded your preneed arrangement through a revocable trust and you cancel the preneed contract AFTER the 30-day deadline, you will be refunded all of your money on the items that are not guaranteed and 90% of all your money on the items that are guaranteed. You will also receive any interest or income on that amount. A revocable trust is a trust that you can cancel.

There may be a penalty to withdraw money from a revocable trust account which has already been established in your name. If there is, your contract will give you this information. (See the first question under the section entitled "Payment" below.)

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

If you funded your preneed arrangement through an insurance policy/annuity contract which will be used at the time of your death to purchase the supplies and services you have selected, you will need to pay careful attention to the cancellation terms and conditions of the policy. You may not be eligible for a refund.

## PAYMENT

-- What happens to my money after the contract is signed?

Your money will be handled in one of several ways. It may be deposited in a separate trust account in your name. The trust account will list a trustee who will be responsible for handling your account. The funeral home you have selected as your beneficiary will also be listed. You have the right to change the funeral home and the trustee of your account prior to receiving the supplies and services under the preneed contract.

Your money may be used to purchase a preneed life insurance policy which may be used to pay for your arrangements upon your death. The proceeds of the policy will be assigned to the funeral home of your choice. You may change the funeral home assignment at any time prior to receiving the supplies and services under the preneed contract.

You may decide to choose a life insurance policy or a trust account that requires regular premium payments and not have to make an up-front, lump sum payment.

-- May I pay for goods and services with real estate or personal property?

Yes. When you pay for these supplies and services in whole or in part with any real estate you may own, the preneed contract that you sign will be attached to the deed on the real estate and the deed will be recorded in the clerk's office of the circuit court in the city or county where the real estate is located.

If you pay for goods and services with personal property other than cash or real estate, the contract seller, will declare in writing that the property will be placed in a trust until the time of your death and will give you written information on all the terms, conditions, and considerations surrounding the trust. The contract seller will confirm in writing that he has received property.

You may decide not to transfer the title of the personal property to the contract seller of your preneed contract. In this situation, you will have to submit information to the contract seller in writing that you are giving him the property without a title, and describe the property and where it will be kept until the time of your death.

In either case, the written statements will be recorded in the clerk's office of the circuit court of the city or county in which you live. The written statement does not have to be a separate document.

## GENERAL FUNDING INFORMATION

-- If the prices of the goods and services are affected by inflation between now and my death, will the funding I choose be adjusted accordingly?

There is a possibility that the funding may fail to keep up with inflation. This could mean that the funding you choose could have insufficient value to cover all expenses.

-- What happens if my funding is not enough to cover the full cost of these arrangements?

If the entire funeral or specific items in the agreement are guaranteed by the contract seller, your family or estate will not have to pay any more for those items provided that you have paid the grand total in full and all interest earned is allowed to accumulate in your account. However, if you have not paid the account in full and have not allowed the interest to accumulate in the account and any items increase in price, your family or estate would be responsible for the extra amount if the funds are not sufficient. In some situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

-- What happens to the extra money if my funding is more than what is needed to pay for these arrangements?

Sometimes, as explained in the answer above, your funding account may not have had the time to grow sufficiently before your death to cover items which are guaranteed in price to you, yet have increased in price for the funeral home.

After funeral expenses are paid, there may be money left over. Because of the ongoing risk that a funeral home takes in guaranteeing prices for you, the funeral home may not be required to return this excess money.

Some funding agreements and funeral homes, however, require that extra money be returned to the estate or family. Others do not. You should obtain information concerning this in writing before signing the preneed contract.

The answers to the following questions will depend upon the terms and conditions of the individual's funding and preneed agreements.

Please review your preneed contract and/or funding agreement for answers to these questions.

-- What happens to my preneed contract if I change my assignment from one funeral home to another?

(Funeral home shall place answer here) .

-- What happens to my preneed contract if I change the beneficiary of my funding or the use of my proceeds from the funding.

If you make such changes, it could void your contract. You should request specific information from the contract seller and the funding arrangement.

-- What will happen to my preneed contract if I fail to make agreed to premium payments to my funding source?

(Funeral home shall place answer here)

-- Do I get any money back if I surrender or cancel my funding arrangements?

(Funeral home shall place answer here)

## TRUST ACCOUNT

-- If my money goes into a trust account, what information will I receive about that account?

If you want your money to go into a trust fund, the trust agreement must furnish you with information about the amount to be deposited into the account, the name of the trustee, information about what happens to the interest your trust account will earn, and information about your responsibility to file and pay taxes on that interest.

If there are filing expenses connected with your trust account, you will be notified what the expenses are and whether you or the contract seller is the responsible party for paying those.

-- What happens to the interest earned by the trust?

The interest earned by the trust may be handled in different ways by different trust arrangements. The interest may have to go back into your account if items on your contract are guaranteed. You may be responsible for reporting that interest to the Internal Revenue Service and paying taxes on it. You will be responsible to pay any taxes on the interest earned even if you cancel your trust account.

Some trust accounts cannot be cancelled.

There may be special fees deducted from your interest. However, you may still be responsible for paying taxes on the entire amount of interest earned before the fees were deducted. Please ask your contract seller for a written list of any fees so you will have a clear understanding about them before you sign the contract.

-- If I pay my trust in premium payments, what happens if I die before the grand total of the funeral has been placed in trust?

(Funeral home shall place answer here)

## CLAIMS AGAINST THIS CONTRACT

-- Can someone to whom I owe money make a claim against the money, personal property, or real estate that I have used to pay for this contract?

No. This money or property cannot be used to settle a debt, a bankruptcy, or resolve a claim. These funds cannot be garnished.

-- Can the money or property be taxed?

No. Currently, interest earned on the money you deposit in a trust, savings account, or the value of the property you used for payment can be taxed but not the original amount which you invested. Interest earned on annuities is generally deferred until withdrawal.

## GENERAL GOODS AND SERVICES

-- If I choose goods and services that might not be available at the time of my death, what is the provider required to do?

The funeral home which you select is required to furnish supplies and services that are similar in style and equal in value and quality if what you choose is no longer made or is not available at the time of your death.

Your representative or next-of-kin will have the right to choose the supplies or services to be substituted. However, if the substitute is more expensive than the item originally selected by you, your designee or next-of-kin would be responsible for paying the difference. Under no circumstances will the funeral establishment be allowed to substitute lesser goods and services than the ones you chose.

If, before your death, the funeral home goes out of business or is otherwise unable to fulfill its obligation to you under the preneed contract, you have the right to use the proceeds at the funeral home of your choice.

If the inability to provide services does not become apparent until the time of your death, the individual that you named as your designee could use the funds for services at another funeral home.

-- May I choose the exact item I want now and have the funeral home store it until my death?

If the funeral home or supplier has a storage policy you may ask for this service. If the funeral home or contract seller agrees to store these items, the risk of loss or damage shall be upon the funeral home during the storage period.

For example, what would happen if you select a casket which is in-stock at the time you make these arrangements and the funeral home or supplier agrees to store it for you in their warehouse and: (i) damage occurs, (ii) the funeral home or supplier goes out of business, (iii) the funeral home or supplier is sold, etc.? You need to be assured in writing of protection in these types of situations.

-- What happens if I choose to have a unique service that is not customary or routine in my community? Must the funeral home comply with my wishes?

The funeral home which you have chosen to conduct your service may be able to only provide certain types of services. They may not be able to fulfill your request. If there is a restriction on what they can provide, you will be notified in writing before you sign the preneed contract.

If the funeral home agrees in writing before you sign the contract to perform such services, the funeral home shall provide you a written, itemized statement of fees which you will be charged.

-- Will the funeral home agree to transport my body to another area for burial?

Again, the funeral home may have restrictions on the distance they are willing to travel to conduct a burial. If restrictions apply, you will be notified in writing.

If the funeral home agrees in writing before you sign the contract to honor your wishes, the funeral home shall provide you a written, itemized statement of any penalties (fees) which you will be charged.

-- I may die and be buried in a city other than one where the funeral home that I select for my goods and services is located. Will the funeral home that I select under this contract deliver my merchandise to the city where I die and am to be buried?

This is entirely up to the funeral home to decide. If the funeral home has restrictions on this, they will notify you in writing. If they agree to ship merchandise to another area for your funeral, you will be notified before signing this contract of the fees involved if they can be determined and guaranteed at this time.

However, the preneed contract arrangements and funding is considered portable. This means that they are available for transfer from one locality to another. It is unusual for actual goods and merchandise to be transferred.

## PRICING

-- How will I know that the prices of items which I select are the same for everyone?

The funeral home maintains a general price list and a casket and outer burial container price list. Your contract seller will give this to you before you begin talking about arrangements. After your discussion is finished, you will be given a copy of your preneed contract on which charges will be listed. Charges will only be made for the items you select. If there are any legal or other requirements that mandate that you must buy any items you did not specifically ask for, the contract seller will explain the reason for the charges to you in writing.

You may ask a funeral home to purchase certain items or make special arrangements for you. If the funeral home charges you for these services, you will receive an explanation in writing. The charges to you for these services may be higher than if you or your family purchased them directly.

At the time of your death, your family or estate will be given an itemized statement which will list all of the specific charges. This is a requirement of the Federal Trade Commission. Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.

-- What is meant by guaranteed and nonguaranteed prices?

Some contract sellers may agree that certain prices are guaranteed. Some may guarantee the price of the total package. Other funeral homes may not guarantee any prices.

Guaranteed prices are those that will not increase for your family or estate at the time of your death. Basically, this means that your funeral arrangement for those items will be covered by and will not exceed your funding and the interest it earns. Nonguaranteed prices are those which might increase or decrease. The nonguaranteed prices may be written in at the time of this contract with you understanding that the price is an estimate only and may increase or decrease. A settlement to that effect may have to be made with your family or representative after your death.

-- Can the contract seller and I negotiate a projected charge for the nonguaranteed items based on the rate of inflation?

It is entirely up to the contract seller to inform you of the funeral home policy in that regard.

## CASKETS AND CONTAINERS

-- Do I have to buy a vault or a container to surround the casket in the grave?

In most areas of the country, state and local laws do not require that you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container to support the earth above the grave. Either a burial vault or a grave liner will satisfy if such requirements exist.

-- Is a casket required?

A casket is not required for direct cremation. If you want to arrange a direct cremation, you may use an unfinished wood box or an alternative container made of heavy cardboard or composition materials. You may choose a canvas pouch.

-- Do certain cemeteries and crematoriums have special requirements?

Particular cemeteries and crematoriums may have policies requiring that certain goods and services be purchased. If you decide not to purchase goods and services required by a particular cemetery or crematorium, you have the right to select another location that has no such policy.

## EMBALMING

-- Is embalming always required?

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements such as viewing or visitation with an open casket. You do not have to pay for embalming you did not approve if you select arrangements



such as a direct cremation or immediate burial. If the funeral home must charge to conduct an embalming, your designee will be notified of the reasons in writing.

#### ASSISTANCE

-- This is all very confusing to me. May I pick someone close to me to help with all of this? May this person also work with the funeral home to ensure that my wishes as written in the preneed contract are carried out?

You may designate in writing a person of your choice to work with the funeral home and contract seller either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing. Under the laws governing preneed contracts, the individual whom you designate has final authority at the time of your death.

-- Where can I complain if I have a problem concerning my preneed contract, the contract seller, or the funeral home?

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers, Department of Health Professions, 6603 West Broad Street, 5th Floor Richmond, Virginia 23230-1712

Telephone Number (804) 662-9907

Toll Free Number 1-800-533-1560

Fax: (804) 662-9943

#### **APPENDICES I to II. [REPEALED]**

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